

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 425

To establish the National Environmental Technologies Agency.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 24 (legislative day, JANUARY 5), 1993

Ms. MIKULSKI introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## A BILL

To establish the National Environmental Technologies Agency.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Environ-  
5 mental Technologies Agency Act”.

### 6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) environmental problems facing the world  
9 pose a threat to the environmental security of the  
10 United States and other nations;

1           (2) the causes of many of environmental prob-  
2       lems lie in the use of environmentally damaging  
3       technologies in areas such as transportation, energy  
4       production, industrial manufacturing, and product  
5       use;

6           (3) the development and deployment of environ-  
7       mentally safe technologies will both enhance the na-  
8       tions environmental security and the economic  
9       standing of the Nation in the world's market place;  
10      and

11          (4) the Federal Government should play a sig-  
12      nificant role in enhancing the Nation's environ-  
13      mental security by—

14            (A) facilitating the development and de-  
15      ployment of environmentally safe technologies  
16      that provide solutions to environmental prob-  
17      lems; and

18            (B) assisting in the diffusion of knowledge  
19      of environmentally safe technologies throughout  
20      the Nation.

21      (b) PURPOSE.—It is the purpose of this Act to assist  
22      the efforts of private industry, universities, nonprofit re-  
23      search centers, and government laboratories to provide en-  
24      vironmentally safe technical solutions to problems threat-

1 ening the Nation’s environmental security and, in the  
2 process, to help the Nation’s competitiveness.

3 **SEC. 3. DEFINITIONS.**

4 For the purposes of this Act—

5 (1) the term “Administrator” means the Ad-  
6 ministrator of the National Environmental Tech-  
7 nologies Agency;

8 (2) the term “Advisory Council” means the In-  
9 dustry and Academia Advisory Council established  
10 by section 5;

11 (3) the term “Agency” means the National En-  
12 vironmental Technologies Agency established by sec-  
13 tion 4; and

14 (4) the term “Fund” means the Critical Tech-  
15 nologies Revolving Fund established by section 9.

16 **SEC. 4. ESTABLISHMENT OF AGENCY.**

17 (a) ESTABLISHMENT.—There is established as an  
18 independent establishment of the United States the Na-  
19 tional Environmental Technologies Agency.

20 (b) ADMINISTRATOR.—(1) The Agency shall be head-  
21 ed by the Administrator of the National Environmental  
22 Technologies Agency, who shall be appointed by the Presi-  
23 dent, with the advice and consent of the Senate.

24 (2) Section 5313 of title 5, United States Code, is  
25 amended by adding at the end the following new item:

1           “Administrator, National Environmental Tech-  
2           nologies Agency.”.

3           (c) STAFF.—The Administrator may appoint a staff  
4 of professionals with skills in the area of program defini-  
5 tion and management and such support staff as the Ad-  
6 ministrator determines to be necessary, of which no more  
7 than 3 may be in positions of confidential or policy-making  
8 character.

9           (d) FUNCTIONS.—It shall be the function of the  
10 Agency to—

11           (1) coordinate planning by the departments,  
12 agencies, and independent establishments of the  
13 United States relating to restoration and protection  
14 of the environment;

15           (2) identify areas that—

16           (A) need technical solutions to maintain  
17 the environmental security of the Nation;

18           (B) are not receiving the long-term prod-  
19 uct-oriented research that is necessary to meet  
20 those needs; and

21           (C) exhibit the greatest promise for the  
22 successful development of solutions;

23           (3) support and assist the development of tech-  
24 nology having potential future application in the res-  
25 toration and protection of the environment;

1           (4) coordinate among the departments, agen-  
2           cies, independent establishments of the United  
3           States and the private sector the exchange of tech-  
4           nological information relating to restoration and pro-  
5           tection of the environment;

6           (5) support continuing research and develop-  
7           ment of advanced technologies by industrial, aca-  
8           demic, and governmental and nongovernmental enti-  
9           ties;

10          (6) monitor on a continuing basis the research  
11          and development being conducted on advanced tech-  
12          nologies by private industry in the United States;  
13          and

14          (7) promote continuing development of a tech-  
15          nological industrial base in the United States.

16          (e) INTERAGENCY ADVISORY COMMITTEE.—(1)  
17          There is established an interagency advisory committee  
18          composed of—

19                (A) the Administrator of the Environmental  
20                Protection Agency, who shall be chair of the commit-  
21                tee;

22                (B) the Director of the Office of Science and  
23                Technology Policy, or the Director's designee;

24                (C) the Secretary of Energy, or the Secretary's  
25                designee;

1 (D) the Secretary of Commerce, or the Sec-  
2 retary's designee;

3 (E) the Secretary of State, or the Secretary's  
4 designee;

5 (F) the Secretary of Defense, or the Secretary's  
6 designee; and

7 (G) the Administrator of the National Aero-  
8 nautics and Space Administration, or the Adminis-  
9 trator's designee.

10 (2) The interagency advisory committee shall advise  
11 and provide information to the Agency with respect to the  
12 needs and concerns of their agencies in the field of envi-  
13 ronmental technologies.

14 **SEC. 5. INDUSTRY AND ACADEMIA ADVISORY COUNCIL.**

15 (a) ESTABLISHMENT.—There is established the In-  
16 dustry and Academia Advisory Council.

17 (b) MEMBERSHIP.—(1) The Advisory Council shall  
18 consist of 9 members appointed by the Administrator, at  
19 least 5 of whom shall be from United States industry.

20 (2) The persons appointed as members of the Advi-  
21 sory Council—

22 (A) shall be eminent in fields such as business,  
23 research, new product development, engineering,  
24 labor, education, management consulting, environ-  
25 ment, and international relations;

1 (B) shall be selected solely on the basis of es-  
2 tablished records of distinguished service; and

3 (C) shall not be employees of the Federal Gov-  
4 ernment.

5 (3) In making appointments of persons as members  
6 of the Advisory Council, the Administrator shall give due  
7 consideration to any recommendations that may be sub-  
8 mitted to the Director by the National Academies, profes-  
9 sional societies, business associations, labor associations,  
10 and other appropriate organizations.

11 (c) TERMS.—(1)(A) Subject to paragraph (2), the  
12 term of office of a member of the Advisory Council shall  
13 be 3 years.

14 (B) A member appointed to fill a vacancy occurring  
15 prior to the expiration of the term for which the member's  
16 predecessor was appointed shall be appointed for the re-  
17 mainder of that term.

18 (C) A member who has completed 2 consecutive full  
19 terms on the Advisory Council shall not be eligible for re-  
20 appointment until 1 year after the expiration of the second  
21 such term.

22 (2) The initial members of the Advisory Council shall  
23 be appointed to 3 classes of 3 members each, one class  
24 having a term of 1 year, one a term of 2 years, and one  
25 a term of 3 years.

1       (3)(A) The Advisory Council shall meet at least quar-  
 2       terly at the call of the chair or whenever one-third of the  
 3       members so request in writing.

4       (B) A majority of the members of the council not hav-  
 5       ing a conflict of interest in a matter under consideration  
 6       by the Advisory Council shall constitute a quorum.

7       (C) Each member shall be given appropriate notice  
 8       of a meeting of the Advisory Council, not less than 15  
 9       days prior to any meeting, if possible.

10       (4)(A) The Advisory Council shall appoint from  
 11       among its members a person to serve as chair and a per-  
 12       son to serve as vice chair.

13       (B) The vice chair of the Advisory Council shall per-  
 14       form the duties of the chair in the absence of the chair.

15       (5) The Advisory Council shall review and make rec-  
 16       ommendations regarding general policy for the Agency, its  
 17       organization, its budget, and its programs within the  
 18       framework of national policies set forth by the President  
 19       and the Congress.

20       **SEC. 6. GENERAL AUTHORITY OF THE ADMINISTRATOR.**

21       (a) **AUTHORITY.**—In carrying out the functions of  
 22       the Agency, the Administrator may—

23               (1) enter into, perform, and guarantee con-  
 24       tracts, leases, grants, and cooperative agreements



1 with any department, agency, or independent estab-  
2 lishment of the United States or with any person;

3 (2) use the services, equipment, personnel, or  
4 facilities of any other department, agency, or inde-  
5 pendent establishment of the United States, with the  
6 consent of the head of the department, agency, or  
7 independent establishment and with or without reim-  
8 bursement, and cooperate with public and private  
9 entities in the use of such services, equipment, and  
10 facilities;

11 (3) supervise, administer, and control the activi-  
12 ties within the departments, agencies, and independ-  
13 ent establishments of the United States relating to  
14 patents, inventions, trademarks, copyrights, royalty  
15 payments, and matters connected therewith that per-  
16 tain to technologies relating to restoration and pro-  
17 tection of the environment; and

18 (4) appoint 1 or more advisory committees or  
19 councils, in addition to those established by sections  
20 4(e) and 5, to consult with and advise the Adminis-  
21 trator.

22 (b) TRANSFER OF TECHNOLOGY.—The Adminis-  
23 trator may transfer to the domestic private sector tech-  
24 nology developed by or with the support of the Agency if  
25 the Administrator determines that the technology may

1 have potential application in private activities relating to  
2 restoration and protection of the environment.

3 **SEC. 7. COOPERATIVE AGREEMENTS AND OTHER AR-**  
4 **RANGEMENTS.**

5 (a) IN GENERAL.—In carrying out the functions of  
6 the Agency, the Administrator may enter into a coopera-  
7 tive agreement or other arrangement with any depart-  
8 ment, agency, or independent establishment of the United  
9 States, any unit of State or local government, any edu-  
10 cational institution, or any other public or private person  
11 or entity.

12 (b) AUTHORITY TO REQUIRE PAYMENT.—(1) A co-  
13 operative agreement or other arrangement entered into  
14 under subsection (a) may include a provision that requires  
15 a person or other entity to make payments to the Agency  
16 (or any other department, agency, or independent estab-  
17 lishment of the United States) as a condition to receiving  
18 assistance from the Agency under the agreement or other  
19 arrangement.

20 (2) The amount of any payment received by a depart-  
21 ment, agency, or independent establishment of the United  
22 States pursuant to a provision required under paragraph  
23 (1) shall be credited to the Fund in such amount as the  
24 Administrator may specify.

1 (c) NONDUPLICATION AND OTHER CONDITIONS.—

2 The Administrator shall ensure that—

3 (1) the authority under this section is used only  
4 when the use of standard contracts or grants is not  
5 feasible or appropriate; and

6 (2) to the maximum extent practicable, a coop-  
7 erative agreement or other arrangement entered into  
8 under this section—

9 (A) does not provide for research that du-  
10 plicates research being conducted under other  
11 programs carried out by a department, agency,  
12 or independent establishment of the United  
13 States; and

14 (B) requires the other party to the agree-  
15 ment or arrangement to share the cost of the  
16 project or activity concerned.

17 **SEC. 8. PROGRAM REQUIREMENTS.**

18 (a) SELECTION CRITERIA.—Not later than 90 days  
19 after the date of enactment of this Act, the Administrator  
20 shall publish in the Federal Register proposed criteria,  
21 and not later than 180 days after the date of enactment  
22 of this Act, following a public comment period, final cri-  
23 teria, for the selection of recipients of contracts, leases,  
24 grants, and cooperative agreements under this Act.

1       (b) FINANCIAL REPORTING AND AUDITING.—The  
2 Administrator shall establish procedures regarding finan-  
3 cial reporting and auditing to ensure that contracts and  
4 awards are used for the purposes specified in this section,  
5 are in accordance with sound accounting practices, and  
6 are not funding existing or planned research programs  
7 that would be conducted in the same time period in the  
8 absence of financial assistance under this Act.

9       (c) ADVICE OF THE ADVISORY COUNCIL.—The Ad-  
10 ministrator shall ensure that the advice of the Advisory  
11 Council is considered routinely in carrying out the respon-  
12 sibilities of the Agency.

13       (d) DISSEMINATION OF RESEARCH RESULTS.—The  
14 Administrator shall provide for appropriate dissemination  
15 of research results of the Agency's program.

16       (e) CONTRACTS OR AWARDS; CRITERIA; RESTRIC-  
17 TIONS.—(1) No contract or award may be made under  
18 this Act until the research project in question has been  
19 subject to a merit review, and has, in the opinion of the  
20 reviewers appointed by the Administrator, been shown to  
21 have scientific and technical merit.

22       (2) Federal funds made available under this Act shall  
23 be used only for direct costs and not for indirect costs,  
24 profits, or management fees of the contractor.

1       (3) In determining whether to make an award to a  
2 joint venture, the Administrator shall consider whether the  
3 members of the joint venture have provided for the appro-  
4 priate participation of small United States businesses in  
5 the joint venture.

6       (4) Section 552 of title 5, United States Code, shall  
7 not apply to the following information obtained by the  
8 Federal Government on a confidential basis in connection  
9 with the activities of any business or any joint venture  
10 that receives funding under this Act:

11           (A) Information on the business operation of a  
12 member of the business or joint venture.

13           (B) Trade secrets possessed by any business or  
14 by a member of the joint venture.

15       (5) Intellectual property owned and developed by a  
16 business or joint venture that receives funding under this  
17 Act or by any member of such a joint venture may not  
18 be disclosed by any officer or employee of the United  
19 States except in accordance with a written agreement be-  
20 tween the owner or developer and the Administrator.

21       (6) The United States shall be entitled to a share  
22 of the licensing fees and royalty payments made to and  
23 retained by a business or joint venture to which it contrib-  
24 utes under this section in an amount proportionate to the

1 Federal share of the costs incurred by the business or joint  
2 venture, as determined by independent audit.

3 (7) A contract or award under this Act shall contain  
4 appropriate provisions for discontinuance of the project  
5 and return of the unspent Federal funds to the Agency  
6 (after payment of all allowable costs and an audit) if—

7 (A) due to technical difficulties, financial dif-  
8 ficulty on the part of the recipient, or for any other  
9 reason, the recipient is not making satisfactory  
10 progress toward successful completion of the project;  
11 or

12 (B) despite satisfactory progress on the  
13 progress, it appears that the project will not achieve  
14 satisfactorily the goals of the project.

15 (8) Upon dissolution of a joint venture that receives  
16 funding under this Act or at a time otherwise agreed upon,  
17 the United States shall be entitled to a share of the resid-  
18 ual assets of a joint venture that is proportionate to the  
19 Federal share of the costs of the joint venture, as deter-  
20 mined by independent audit.

21 **SEC. 9. REVOLVING FUND.**

22 (a) ESTABLISHMENT.—There is established in the  
23 Treasury of the United States a revolving fund to be  
24 known as the “Environmental Advanced Research  
25 Projects Revolving Fund”, which shall consist of such

1 amounts as are appropriated or credited to it from time  
2 to time.

3 (b) EXPENDITURES FROM THE FUND.—Amounts in  
4 the Fund shall be available, as provided in appropriations  
5 Acts, to carry out the purposes of this Act.

6 (c) LOANS, GRANTS, AND OTHER FINANCIAL ASSIST-  
7 ANCE.—(1) The Administrator may use the Fund for the  
8 purpose of making loans, grants, and other financial as-  
9 sistance to industrial and nonprofit research centers, uni-  
10 versities, and other entities that serve the long-term envi-  
11 ronmental security needs of the United States, to carry  
12 out the purposes of this Act.

13 (2) A loan made under this section shall bear interest  
14 at a rate determined by the Secretary of the Treasury (as  
15 of the close of the calendar month preceding the month  
16 in which the loan is made) to be 3 percent less than the  
17 current market yield on outstanding marketable obliga-  
18 tions of the United States with remaining periods to matu-  
19 rity comparable to the period for which the loan is made.

20 (3) Repayments on a loan made under this section  
21 and the proceeds from any other agreement entered into  
22 by the Administrator under this Act shall be credited to  
23 the Fund.

24 (d) MANAGEMENT OF FUND.—(1) The Secretary of  
25 the Treasury shall manage the Fund and, after consulta-

1 tion with the Administrator, report to Congress each year  
2 on the financial condition and the results of the operation  
3 of the Fund during the preceding fiscal year and on the  
4 expected condition and operations of the Fund during the  
5 next 5 fiscal years.

6 (2)(A) The Secretary of the Treasury shall invest the  
7 portion of the Fund that is not, in the judgment of the  
8 Secretary, required to meet current withdrawals.

9 (B) Investments of monies in the Fund may be made  
10 only in interest-bearing obligations of the United States.

11 **SEC. 10. ANNUAL REPORT.**

12 The Administrator shall submit a report to Congress  
13 annually describing—

14 (1) the activities of the Agency;

15 (2) the Agency's plans for future activities;

16 (3) the manner and extent to which tech-  
17 nologies developed with assistance from the Agency  
18 have been used; and

19 (4) the extent to which those technologies have  
20 been transferred overseas.

21 **SEC. 11. APPROPRIATIONS.**

22 (a) AMOUNTS.—There are authorized to be appro-  
23 priated to the Agency to carry out this Act \$75,000,000  
24 for fiscal year 1993, \$140,000,000 for fiscal year 1994,  
25 and \$200,000,000 for fiscal year 1995.



1       (b) LIMITATION ON USE.—Of amounts appropriated  
2 to the Agency, no more than 5 percent may be used to  
3 pay for administrative expenses of the Agency.

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